

# HOUSE BILL REPORT

## SSB 5881

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**As Passed House:**  
April 14, 2009

**Title:** An act relating to truancy.

**Brief Description:** Changing provisions involving truancy.

**Sponsors:** Senate Committee on Human Services & Corrections (originally sponsored by Senators McAuliffe, Hargrove, Regala, Jarrett and King).

**Brief History:**

**Committee Activity:**

Education: 3/13/09, 3/25/09 [DP].

**Floor Activity**

Passed House: 4/14/09, 86-10.

### Brief Summary of Substitute Bill

- States a preference that, when a parent or guardian is not fluent in English, school district and court notices regarding truancy be provided in a language in which the parent or guardian is fluent.
- Requires truancy petitions to include information regarding parental and student fluency in English as well as the existence of an individualized education program.
- Shortens the time within which a truancy board must meet with the child, parent, and school district representative and prescribes rules with respect to court approval of truancy board agreements and consequences for noncompliance with such an agreement.
- Requires that, where counsel is not provided, the court advise the child of rights by means of a colloquy.
- Directs the court to inquire into efforts the school district has made to assist children in special education programs or diagnosed with mental or emotional disorders.
- Prohibits detention for longer than seven days.
- Establishes parameters regarding service of an arrest warrant.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

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## HOUSE COMMITTEE ON EDUCATION

**Majority Report:** Do pass. Signed by 13 members: Representatives Quall, Chair; Probst, Vice Chair; Priest, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Cox, Dammeier, Hunt, Johnson, Lias, Maxwell, Orwall, Santos and Sullivan.

**Staff:** Cece Clynch (786-7195)

### **Background:**

#### Truancy Laws.

School attendance is compulsory for any child between the ages of 8 and 18. Pursuant to the truancy laws, often referred to as the "Becca Bill," unexcused absences trigger an escalating series of interventions. After a child's first unexcused absence, a school must notify the child's parent or guardian, by written notice or telephone, of the absence and the potential consequences of additional unexcused absences. After two unexcused absences in one month, a school must schedule a meeting with a parent or guardian and child and take steps to eliminate or reduce unexcused absences. If a student has seven or more unexcused absences in any month, or 10 or more in a year, and actions by the school have not substantially reduced the absences, the school district is required to file a truancy petition. If the school fails to do so, the parent may file a petition.

The juvenile court must schedule a hearing to consider the truancy petition. If allegations in the petition are proven by a preponderance of the evidence, or if this evidentiary hearing is waived by the child, the court may enter a truancy order assuming jurisdiction to intervene and order the child to attend school. The court may also order the child to change schools, to appear before a truancy board, or to submit to drug or alcohol testing.

The school district must report any additional absences to court. A child's failure to comply with the order may result in contempt sanctions, including detention.

A juvenile court may establish and operate community truancy boards. If the court agrees, a school district may establish and operate a truancy board under the jurisdiction of the court. The duties of a community truancy board include recommending methods for improving school attendance.

Implementation of the Becca Bill varies, depending upon the school district and the court. Some make more use of community truancy boards than others. Some districts are represented by counsel, including the county prosecutor in some counties, while others are represented by the school truancy officer. In some areas, but not others, students are provided with counsel even at the initial hearing.

#### Preliminary Analysis by the Washington State Institute for Public Policy.

In 2008 the Legislature directed the Washington State Institute for Public Policy (WSIPP) to analyze local practices regarding Washington's truancy laws. In January of 2009 the WSIPP reported on expenditures, district definitions of absence and unexcused absence, and the frequency of use of contempt proceedings. By June of 2009, the WSIPP will report on the

programs and services available, gaps in accessing services, an evaluation and comparison of programs, and an analysis of the academic impact on students who receive a truancy petition.

The WSIPP's estimate of costs, to courts and local governments, of a truancy case is \$434 per case, or \$14 million per biennium. The state reimbursement for truancy is \$9.7 million per biennium. School districts spend about \$5.3 million a biennium for truancy statewide while the state budget for this is \$3.6 million per biennium.

**Summary of Bill:**

Notices.

Written or telephonic notices to parents and guardians regarding the first unexcused absence and the potential consequences should, if the parent or guardian is not fluent in English, preferably be provided in a language in which the parent or guardian is fluent.

Truancy Petition.

A truancy petition must set forth whether the child and parent are fluent in English. The petition must also indicate whether there is an existing individualized education program.

Truancy Boards.

The development and expansion of community truancy boards and other effective diversion programs are encouraged and supported. Operation of a school district truancy board does not, however, excuse a district from the obligation of filing a truancy petition. The time within which a truancy board must meet with the child, parent, and school district representative is shortened to 20, down from 30, days after referral. Agreements entered into with truancy boards will no longer require presentation to, and approval by, the court. If no agreement is reached, or if the parent or student fails to comply with an agreement, the truancy board must return the case to the court for a hearing.

Court Proceedings.

In the event that a parent is not fluent in English, notices of court hearings should preferably be provided in a language in which the parent is fluent. If the child is not provided with counsel, the advisement of rights must take place in court by means of a colloquy between the court, the child if the child is eight or older, and the parent. If the child is in a special education program or has a diagnosed mental or emotional disorder, the court shall inquire as to what efforts the school district has made to assist the child in attending school.

Court ordered detention for noncompliance with a court order may not be for longer than seven days. Arrest warrants may not be served on a child inside of school during school hours in a location where other students are present.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) None.

(With concerns) School districts were very concerned with the original bill which required that notices be sent in a language in which parents are fluent. This bill now expresses a preference rather than imposes such a mandate but there are still concerns. For instance, there are 108 languages in the Federal Way School District. These requirements constitute unfunded mandates on the school districts and the courts. The WSIPP has found that petitions are being filed in only 32 percent of the cases. The courts will have difficulty following through with more requirements and less funding. Bills such as this, which tinker with the underlying statutory scheme rather than look at the whole process, cause problems. Different communities feel differently about the Becca Bill laws. Grays Harbor principals love the Becca Bill laws. In Pierce County, it can be 1.5 years before a truant student appears in front of a judge. In Clark County, very few petitions are filed. Truancy boards may delay the process even further since it is appearing before a judge that leads to improved attendance.

(Opposed) None.

**Persons Testifying:** Barbara Mertens, Washington Association of School Administrators; and Jerry Bender, Association of Washington School Principals.

**Persons Signed In To Testify But Not Testifying:** None.